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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,965	07/11/2003	Hung-Yang Chang	YOR920030197US1 (8728-627)	4134
46069 7590 04/10/2007 F. CHAU & ASSOCIATES, LLC 130 WOODBURY ROAD WOODBURY, NY 11797			EXAMINER JEANTY, ROMAIN	
			ART UNIT 3623	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			04/10/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/617,965	CHANG ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Romain Jeanty	3623	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 December 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This Final Office Action is in response to the communication received on December 12, 2006.

### **Response to Arguments**

2. Applicant's arguments with regard to the 35 USC 101 rejection has overcome the rejection. The prior office action has been withdrawn. However, applicant's arguments with regard to 35 USC 103 rejection have been considered but are moot in view of the new ground(s) of rejection.

### **Claim Objections**

3. Claim 3 is objected to because of the following informalities: Line 5, it appears that **poined** was inadvertently typed instead point. Appropriate correction is required.

### **Claim Rejections - 35 USC § 103**

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stowell et al (20020099579) in view of Wu et al (An Approach of Modeling, Monitoring and Managing Business Operations for Just-In-Time Manufacturing).

As per claim 1, Stowell discloses an event-monitoring architecture for performance-based supply chain management method. In so doing, Stowell et al disclose executing a business process that comprises an integrated set of applications that enable interactions between a plurality of entities (i.e, an application for processing [Paragraph 0031], and managing the execution of the business process using business commitment specifications that describe one or more business commitments among said entities [Paragraph 0036 and 0093], wherein the business commitments are defined using KPIs (Key Performance Indicators) [Paragraph 0085, and 0102].

Stowell et al disclose all of the limitations above but fail to disclose and wherein KPIs are defined using probe points. Official Notice is taken is taken that it is old and well known in the art KPI (Key Performance Indicator) to define probe points. It would have been obvious to a person of ordinary skill in the art to modify the teachings of Stowell et al to include probe points in order to locate business elements within a business process order to specify commitments in the context of business process management.

Stowell fails to explicitly disclose the probe points comprising a logical locator inside the business process for reporting process data to a process monitoring/control system for calculating the KPIs. Wu et al in the same field of endeavor teaches a monitoring system which utilizes probe points to report the execution of a business process. Data from the probes is used is sent to the monitoring system. It would have been obvious to a person of ordinary skill in the art at the

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time of the applicant's invention to modify the disclosures of Stowell to incorporate the teachings of Wu et al in order to monitor the business level performance.

As per claim 2, Stowell further discloses wherein the business commitment specifications are described using XML (eXtensible Markup Language) syntax [Paragraph 0027].

As per claim 3, Stowell et al does not expressly disclose monitoring a probe point associated with the business process, and determining a value of a KPI when a probe point, which is associated with the KPI, is activated. Official Notice is taken is taken that it is old and well known in the art to monitor a probe point associated with a business process, and determining a value of a KPI when a probe point, which is associated with the KPI, is activated. It would have been obvious to a person of ordinary skill in the art to modify the teachings of Stowell et al to include this well known teachings in order to locate business elements within a business process order to specify commitments in the context of business process management.

Stowell et al further disclose evaluating a business commitment associated with the KPI based on the determined value of the KPI to determine if the business commitment has been violated. [0093].

Stowell fails to explicitly disclose reporting process data from at least one.. upon activation of the at least one probe point... However, Wu et al teaches a monitoring system which utilizes probe points to report the execution of a business process. Data from the probes is used is sent to the monitoring system. It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify the disclosures of Stowell to incorporate the teachings of Wu et al in order to monitor the business level performance.

As per claim 4, Stowell et al further disclose wherein the step of determining a value of a

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KPI comprises determining the value of the KPI based on a value of at least one other KPI [Paragraphs 0014, 0055 and 0152].

As per claim 5, Stowell et al further disclose the method of claim 3, wherein the step of determining a value of a KPI comprises invoking a function to determining the value of the KPI [Paragraph 0114].

As per claim 6, Stowell et al further disclose the concept of wherein the step of determining a value of a KPI comprises determining the value of the KPI based on a value extracted [0077], but Stowell et al do not disclose the value of the KPI is extracted from a probe point. However, extracting the value of the KPI from a probe point would have been obvious to a person of ordinary skill in the art in order to locate business elements within a business process order to specify commitments in the context of business process management.

As per claim 7. The method of claim 3, wherein the step of evaluating a business commitment comprises evaluating a condition specified by the business commitment using the determined value of the KPI [Paragraph 0141].

As per claim 8, the method of claim 3, further comprising the step of commencing an action if it is determined that the business commitment has been violated [Paragraph 0093].

As per claim 9. the method of claim 8, wherein the step of commencing an action comprises providing notification of the violation to an entity associated with the business commitment. [Paragraph 0139].

As per claim 10, the method of claim 8, wherein the step of commencing an action comprises invoking a management directive to alter the execution of the business process [Paragraph 0030].

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As per claims 11-20 are program storage device readable by a machine, for performing the steps of method claims 1-10; and therefore claims 11- 20 are rejected under the same rationale relied upon claims 1-10.

### **Remarks**

6. Applicant asserted that Stowell fails to teach the claimed invention. Applicant further supported his assertion by arguing that Stowell fails to teach or suggest probe points comprising a logical locator inside the business process for reporting process data to a process monitoring/control system for calculating the KPIs. In response, the examiner respectfully disagrees. Stowell in combination with Wu et al, discloses the concept of using probe points in in a processing monitoring control system. Applicant is referred to new rejection of claims 1, and 11 above.

Applicant further argues that Stowell does not teach a server that is not believed to inside a business process as the claimed probe points. Applicant further traverses the finding of Official Notice and requested that the examiner provide affidavit or declaration setting forth specific factual statements and explanation to support the finding. In response, applicant is referred to the Wu et al which teaches a business process comprising probe points. Note Pages 1-5 of Wu et al.

### **Conclusion**

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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a. Asawa (Measuring and Analysis Service Levels: A Scalable Passive Approach), discloses the concepts of collecting data using data points "probe points" for monitoring service performance in a business process environment. An alarm (sensor) is used when there is low confidence on the collected data and compared with a desired performance objective

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

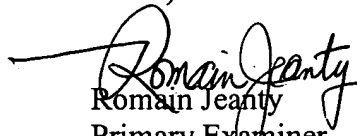
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Romain Jeanty whose telephone number is (571) 272-6732. The examiner can normally be reached on Mon-Thurs 7:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq R. Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Romain Jeanty  
Primary Examiner  
Art Unit 3623  
March 19, 2007